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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

**CALIFORNIANS FOR RENEWABLE
ENERGY, et al.,**

Plaintiffs,

v.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, et ano.,**

Defendants.

Case No. 4:15-cv-03292-SBA (LB)

**JOINT STIPULATION AND
PROPOSED ORDER REGARDING
PLAINTIFFS' APPLICATION FOR AN
AWARD OF ATTORNEY'S FEES
UNDER THE EQUAL ACCESS TO
JUSTICE ACT**

1 Californians for Renewable Energy, Ashurst/Bar Smith Community Organization, Citizens
2 for Alternatives to Radioactive Dumping, Saint Francis Prayer Center, Sierra Club, and Michael
3 Boyd (“Plaintiffs”), and the U.S. Environmental Protection Agency and Andrew Wheeler, in his
4 official capacity as Administrator of the U.S. Environmental Protection Agency (“Defendants”),
5 through their respective counsel, stipulate and agree as follows:

6 1. Plaintiffs have filed concurrently with this stipulation an application for an award of
7 attorneys’ fees and expenses in this case following the Court’s entry of an order resolving
8 Defendants’ Motion to Alter Judgment on September 30, 2020, followed by an Amended Judgment
9 on October 2, 2020. ECF Nos. 144, 145.

10 2. Plaintiffs and Defendants agree that proceeding with full briefing and a hearing on
11 Plaintiffs’ application at this time would unnecessarily increase attorney’s fees and use judicial
12 resources. Plaintiffs and Defendants believe that the most efficient path forward would involve the
13 informal negotiation and resolution of their respective positions on fees, and have agreed to engage
14 in discussions to that end.

15 3. Accordingly, Plaintiffs and Defendants stipulate and agree that further filings and
16 proceedings related to this application, including, but not limited to, the submission of detailed costs
17 and fees documentation, declarations supporting the application, possibly an amended application,
18 and response and reply memoranda should be deferred while Plaintiffs and Defendants attempt to
19 resolve this pending application by settlement. Plaintiffs and Defendants further stipulate and agree
20 that if settlement is not possible, they will attempt to agree to a schedule for briefing and resolving
21 these matters, and if no agreement on a schedule can be reached, one of parties shall request that the
22 Court set such a schedule.

23 4. By entering into this stipulation, Defendants are not agreeing that the Plaintiffs are
24 entitled to recover attorney’s fees for their pending fee application in this case, or to the amount of
25 any such fees. Unless specifically agreed to herein, Defendants do not waive any objection or
26 defense they may have to the Plaintiffs’ fee application, including, but not limited to, whether the
27 Plaintiffs are a prevailing party under the Equal Access to Justice Act and whether Defendants’
28 position was substantially justified.

1 5. Notwithstanding the foregoing, Defendants do agree to waive any objection or defense
2 that Plaintiffs failed to timely file a complete application for attorney's fees and costs, including
3 timely filing detailed costs and fees documentation and supporting declarations.
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5 Respectfully submitted this 23rd day of December, 2020.

6 EARTHJUSTICE

7 By: /s/ Suzanne Novak

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17 *Attorneys for Plaintiffs*

18 UNITED STATES DEPARTMENT OF JUSTICE

19 By: /s/ Andrew Zee

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28

1 **[PROPOSED] ORDER**

2 Pursuant to the foregoing stipulation, it is ORDERED that all proceedings on Plaintiffs'
3 application for attorney's fees and expenses, including the submission of detailed costs and fees
4 documentation, declarations supporting the application, possibly an amended application, and
5 response and reply memoranda, are held in abeyance, pending the parties' attempts to resolve and
6 settle Plaintiffs' request for fees and expenses.

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10 Sandra Brown Armstrong
11 U.S. District Judge
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